

REMARKS

The courtesies extended to Applicants' representative during the telephonic interview of January 24, 2006 are gratefully acknowledged. Reconsideration of this application in view of that interview and the present amendments, which include the Examiner's helpful suggestions, is requested.

Claims 39-85 are pending. Claims 39-48, 51-55, 57-67, 70-72, 75-77 and 80-82 stand rejected. Claims 49, 50, 56, 68, 69, 73, 74, 78, 79, 83, and 84 stand objected to, but would be allowable if re-written in independent form. The only pending independent claims are 39, 47, 48, 57 and 85.

Applicants have amended claims 39, 47, 48 and 57. Support for the amendments can be found throughout the originally filed specification at, for example, page 10, paragraph 0017, page 8, paragraph 0013, which states "the barb may have serrated edges 66 at the distal ends of its arms 64. . . the serrated edge may bite or dig into the material of the duct section" and Figs. 5-7.

New claim 85 has been added. Support for new claim 85 can be found in the originally filed specification, at paragraph 13. Additional support can be found at Figs. 5-7.

Objections and Related 35 U.S.C. § 112 Rejection

The objection to the specification for failing to provide proper antecedent basis for the release mechanism is hereby traversed. In one embodiment of the present invention, shown in Figs. 2, 4 and 5, the release mechanism corresponds to a releasable fastener, designated by reference character 58. Further, paragraph 13 of the originally filed specification states "the barb body 62 is mountable upon the barb mount 60 and retainable thereon by an externally threaded screw 58 or other fastener, which penetrates a hole 56 in the barb and is directed into the internally threaded screw aperture 78 in the barb mount." Finally, previously presented claim 68, which was not objected to, identifies the release mechanism as a fastener.

The rejection of claims 39-84 under 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

is also traversed. The term “release mechanism” connotes structure s well-understood by those of ordinary skill in the art. As stated above, the “release mechanism,” according to one embodiment of the present invention, corresponds to a releasable fastener.

35 U.S.C. § 102/103 Rejections

Claims 39-48, 51-54, 57-65, 70, 75 and 80 stand rejected as being anticipated by U.S. Pat. No. 5,316,243 to Henneberger (hereinafter “Henneberger”). Claims 39-42, 44, 45-48, 51-53, 57-60, 62-67, 70-72, 75-77 and 80-82 stand rejected as being anticipated by U.S. Pat. No. 5,752,781 to Haataja et al. (hereinafter “Haataja”). Claim 55 stands rejected as being unpatentable over Henneberger in view of U.S. Pat. No. 5,338,083 to Gute.

I. Claims 39-84

Applicants respectfully submit that amended independent claims 39, 47, 48 and 57 are allowable over each of Henneberger and Haataja:

- Neither Henneberger nor Haataja teaches or suggests a locking mechanism comprising a first distal end and a second distal end, at least one of said first and second distal ends comprising an edge positioned to engage at least one of said first and second cable duct sections, as recited by amended independent claims 39, 47, 48 and 57.
- Nor does Henneberger teach or suggest the “release mechanism” limitations recited by these amended independent claims.
- Finally, Haataja fails to teach or suggest a coupler that does not utilize tools for securement, as recited by amended independent claims 39, 47, 48 or 57.

The remainder of claims 39-84 depend from one of the foregoing independent claims or an intervening claim.

A. Neither Henneberger Nor Haataja Teaches Or Suggests Applicants' "Distal End" Limitations

Applicants respectfully submit that neither Henneberger nor Haataja teach or suggest a locking mechanism comprising a first distal end and a second distal end, at least one of said first and second distal ends comprising an edge positioned to engage at least said first cable duct section, as recited by amended independent claims 39, 47, 48 and 57. Henneberger's terminal ends 65 do not comprise at least one edge that engages a cable duct section. In fact, Henneberger's terminal ends 65 are not utilized for engagement at all. Similarly, Haataja does not teach or suggest this feature. Not only do the distal ends of the Haataja spring members 250 fail to include at least one edge for engaging a portion of cable duct, there is no indication that the Haataja spring members 250 even comprise an edge for engagement.

B. Henneberger Fails To Teach Or Suggest The Recited "Release Mechanism" Limitations

Further, the release mechanism limitations recited by independent claims 39, 47, 48 and 57 do not appear in Henneberger. At the outset, Applicants note that Henneberger's express teachings deal only with securing a coupler to a cable duct, not releasing the coupler after securement. Henneberger is silent concerning whether its coupler device is even capable of being released from a cable duct after securement.

The Office Action, at pages 4 and 7, nonetheless asserts that Henneberger teaches a release mechanism, in the form of the "end portions" of the Henneberger barb, suggesting that the arms of Henneberger could be pushed back by a hand/finger of the user to release the barb from retaining the first duct section.¹ Applicants respectfully submit that this assertion is misplaced for at least two reasons:

¹ The Office Action also implies that Applicants, at page 11 of a June 17, 2004 response, suggested that the Henneberger coupler could be successfully released by force. Applicants made no such statement. Applicants' response states the exact opposite - namely that "Henneberger does not disclose, teach or suggest any structure or method that allows the spring bias, or the tabs 66 of the springs 61 to be released from the trough or fitting wall, once the tabs bite into the wall." Applicants' later statement concerning forcible withdrawal, which would likely destroy or damage the coupler, does not indicate that application of such force would actually succeed in freeing the coupler from the fitting.

- Since Henneberger does not teach that this “end portion” can be used to effect release of a cable duct section from the Henneberger coupler, the Office Action’s assertion impermissibly invokes personal opinions/knowledge of the Examiner without sufficient evidentiary support.

While the Office Action does not specifically identify the structure corresponding to the “end portion” of Henneberger’s barb, it appears the Office Action intended Henneberger’s terminal end 65 to represent this structure. Assuming that is the case, Henneberger nowhere teaches that pushing back this terminal end 65 releases the barb from retaining a first cable duct section. Henneberger’s one and only mention of its terminal ends 65 appears at, col. 3, ll 66-67, which characterizes the ends 65 as “bent back to permit a leading end of the attachment ends to be inserted within the space 57,” -- not to release a section of cable duct.

To cure this deficiency in Henneberger, the Office Action’s rejection improperly relied upon unsupported opinions within the personal knowledge of the Examiner. In particular, there is no objective evidence in the record to support the Office Action’s assertion that a user could successfully push back the Henneberger’s arms with a hand or finger to enable release of the Henneberger coupler from a cable duct. In fact, as shown in Henneberger Fig. 3, the clearance between the Henneberger arms (reference character 61) and the Henneberger wall (reference character 57) is not wide enough to accommodate a hand or finger of a user. Further, once the Henneberger coupler is secured to a cable duct, the clearance decreases even more. This arrangement is shown in Henneberger Fig. 5.

Applicants, therefore, respectfully call the Examiner’s attention to 37 C.F.R. § 1.104(d)(2), which specifies that “when a rejection is based on facts within the personal knowledge of an employee of the Patent Office, the data shall be as specific as possible and the reference must be supported, when called for by the applicant, by the affidavit of such employee.” Since the important “release” limitations recited by independent claims 39, 47, 48 and 57 are not expressly taught by Henneberger, Applicants respectfully request that the Examiner provide either a reference or an affidavit stating the basis for her assertion that a user could insert a hand or finger into the Henneberger coupler to push back the arms for releasing the coupler from a cable duct. If no affidavit is

forthcoming, Applicants respectfully submit that independent claims 39, 47, 48 and 57 and all claims dependent therefrom are allowable over Henneberger.

- The Office Action's reliance on teachings outside the four corners of Henneberger requires application of the standard for obviousness, not anticipation.

The combination of Henneberger with the Examiner's personal knowledge precludes the Office Action's anticipation rejection. The proper standard for such a rejection is obviousness, not anticipation. As the Federal Circuit has explained, "[i]f it is necessary to reach beyond the boundaries of a single reference to provide missing disclosure of the claimed invention, the proper ground is not § 102 anticipation, but § 103 obviousness." *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1577 (Fed. Cir. 1991).

In this case, the Action cites Henneberger as an anticipatory reference, characterizing the end portions of the arms of the Henneberger coupler as a release mechanism because these end portions "could be pushed back . . . by hand/finger of the user to remove the springs locking/biting action on the trough." Yet, Henneberger fails to mention, let alone actually teach or suggest, employing a hand/finger of a user to push back the arms to release the coupler from a duct receiving portion. The Office Action, as it must, relies on teachings outside the four corners of Henneberger. Applicants respectfully submit that without satisfying the standard for obviousness, the Henneberger rejection must fall.

For all of the foregoing reasons, Applicants respectfully request withdrawal of the Henneberger rejection as to independent claims 39, 47, 48 and 57.

C. The Claimed Locking Mechanism Is Not Met By Haataja

Applicants respectfully submit that Haataja neither teaches nor suggests a coupler securable without the use of tools, as recited by amended independent claims 39, 47, 48 and 57.

The Haataja locking mechanism is not capable of securement without using tools. Haataja makes clear that securement of its coupling to a cable duct necessitates the use of tools for driving screw 230 to penetrate into the plastic material of the cable duct trough

11. Haataja, at col. 4, ll 47-53, states “the screws 230 contained within the mounting brackets 220, 221 can be turned to bite into the plastic material of the trough 11 or fitting 50 and securely couple the trough 11 or fitting 50 to the coupling 200.”

Apparently confusing Haataja with Henneberger, the Office Action, at page 5, asserts that the Haataja coupling includes an arm “including a knife blade edge (66) bitingly engaging a respective duct section.” Although Haataja does teach two spring members 250, which the Office Action equates with Applicants’ at least one arm, there is no teaching in Haataja of “a knife blade edge 66 for bitingly engaging a duct section,” as the Office Action asserts. Reference character 66 is not even used in Haataja. The Office Action appears to have inadvertently confused the teachings of Henneberger, which, at col. 4, ll 6-7 designates a knife edge with reference character 66, with the tabs of the Haataja spring members, designated by reference character 252. Haataja simply does not teach that tabs 252 engage a portion of a cable duct to secure the coupling to said couple duct. Instead, Haataja, at col. 4, ll 47-53, specifically teaches that screw 230 serves this function.

Haataja Fig. 4 further validates Applicants’ position. As shown in Fig. 4, tabs 252 do not appear to even extend far enough to enter the spacing created by walls 213 and 205, which receive the trough or cable duct walls. *See* col. 3, ll 54-57. Thus, tabs 252 will not even contact an interior surface of a cable duct’s attachment member 26. The actual purpose of Haataja’s spring members 250 appears to be to help align and position the coupler with respect to a cable duct or trough section, not to lock a cable duct within the coupler. This locking is clearly the function of the penetrating screw.

For the foregoing reasons, Applicants respectfully submit that independent claims 39, 47, 48 and 57 are allowable over each of Henneberger and Haataja. Since dependent claims 40-46, 49-56 and 58-84 depend from an allowable base or intervening claim, these claims are likewise allowable.

II. New Claim 85

New independent claim 85 is also allowable over both Henneberger and Haataja.

Neither Henneberger nor Haataja teaches or suggests “a locking mechanism comprising a first distal end and a second distal end, at least one of said first and second distal ends comprising an edge positioned to engage a portion of at least said first cable duct section when said first cable duct section is inserted into said first duct-receiving portion.” As previously mentioned, Henneberger’s terminal ends 65 do not comprise at least one edge for engaging a cable duct section. With respect to Haataja, there is no disclosure concerning whether spring members 250 even include at least one edge for engaging a portion of cable duct.

Furthermore, Haataja does not teach or suggest that “said first and second cable duct sections are capable of being secured to said coupler without tools.” Haataja’s screws 230 require the use of tools for securement.

Claim 85 is allowable.

CONCLUSION

For the foregoing reasons, Applicants respectfully submit that all pending claims are in condition for allowance. If, in the Examiner's opinion, another telephonic interview would be helpful, Applicants' representative can be reached at the telephone number below.

Respectfully submitted,
PANDUIT CORP.

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By: Jon Harris
Jonathan A. Harris
Reg. No. 44,744

WILDMAN, HARROLD, ALLEN & DIXON LLP
225 West Wacker Drive
Chicago, IL 60606
Ph. 312/201-2189
Fax 312/201-2555
1611297

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Valeria Rodriguez